IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 12TH JULY 2007 / 21ST ASHADHA 1929

Bail Appl..No. 4199 of 2007()

CRIME NO.21/07 OF KUNNAMANGALAM EXCISE RANGE

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PETITIONER/2ND ACCUSED:

KRISHNAN, AGED 38 YEARS,
S/O. CHOYI, VELLARANKUNNU, KUNNAMANGALAM,KOZHIKODE

BY ADV. SRI.V.G.ARUN
SRI.T.R.HARIKUMAR

RESPONDENTS: COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI,. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 12/07/2007, ALONG WITH BA NO. 4213 OF 2007THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.Nos. 4199 & 4213 of 2007

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Dated this the 12th day of July, 2007

O R D E R

Applications for anticipatory bail. The petitioners are accused 1 and 2. It is alleged that they were together found in possession of 10 litres of arrack on 16.6.2007. Seeing the approaching Excise party they jumped into the river and swam away. The Excise party could not arrest them. In the seizure mahazar and the occurrence report prepared contemporaneously allegations against the petitioners are clearly shown. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. They are not in any way connected with the crime. The names of the accused were collected by the Excise Party the next day.

3. The learned Prosecutor opposes the application. Allegations are true and genuine. The detecting officers have no reason to make such false and vexatious allegations against the petitioners even allegedly. In these circumstances anticipatory bail may not be granted to the petitioners, prays the learned Prosecutor.

4. I find merit in the opposition by the learned Prosecutor. I find no reasons to assume that the allegations are totally false. In coming to this conclusion I take note of the circumstance that no malafides is even alleged against the detecting officials. I am satisfied that this is a fit case where the petitioners must resort to the ordinary and regular procedure of appearing before the Investigator or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

4. This application is accordingly dismissed. I may however hasten to observe that if the petitioners appear before the Investigating Officer or the learned Magistrate and apply for regular bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously.

(R. BASANT)
Judge

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